

REMARKS

I. Introduction

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the reasons that follow.

II. Status of the Claims and Summary of Amendments Thereto

Claims 34, 41, and 46 are requested to be cancelled without prejudice or disclaimer. Applicants thus reserve the right to pursue the cancelled subject matter in this or in any other appropriate application. Therefore, upon the PTO's entry of the amendments, claims 35-38 and 42-45 will be pending.

Applicants gratefully acknowledge the PTO's indication that claims 35-38 and 42-45 are allowed.

Claims 35-38 are amended simply to harmonize the scope of claimed cationic emulsifiers with those recited in allowed claims 42-45, respectively. Thus, claims 35-38 provide for "fatty quaternary ammonium chlorides, fatty amine oxides, fatty alkyldimethylamine salts of simple organic acids and mixtures thereof." Support for this amendment can be found on page 5, lines 13-15.

III. The Office Action

The present Office Action recapitulates the outstanding rejections of claims 34 and 41, and presents anew a further ground for rejection. Applicants now turn to these matters in the order presented in the Office Action.

A. Maintained Rejections of Claims Under 35 U.S.C. § 103(a)

Notwithstanding the allowance of some claims as acknowledged above, the PTO maintained that claims 34 and 41 are allegedly unpatentable under 35 U.S.C. § 103(a) over EP 598 515 to Hayashi *et al.* ("Hayashi") and EP 598 404 to Hirabayashi *et al.* ("EP Hirabayashi"). The PTO similarly insisted that claim 34 is allegedly unpatentable over U.S.

Pat. No. 5,436,225 to Hirabayashi *et al.* ("US Hirabayashi") and U.S. Pat. No. 5,346,879 to Manabe *et al.* ("Manabe"). Office Action at page 2. This is so despite Applicants' having furnished evidence under 37 C.F.R. § 1.132 that the claimed compositions are unexpectedly homogeneous and stable in light of the cited prior art teachings.

The PTO's conclusion of obviousness as to these claims evidently follows from two premises. First, according to the PTO, both combinations of cited prior art references engender the notion that extrapolation by "routine experimentation" from the references' general teachings would lead a person of ordinary skill to the specific ranges of concentrations as claimed. The second accepts that the first premise is true, and asserts that Applicants' unexpected results is not sufficient in scope to evidence the non-obviousness of the entire scope of claimed subject matter. Office Action at page 4. Applicants respectfully traverse.

Central to the foregoing analysis is the conspicuous absence of any reason why a skilled person could begin from general teachings of broad ranges and arrive at the claimed narrow ranges, particularly when Applicants already demonstrated surprising and advantageous properties of the claimed compositions if one were so inclined to make them. However, in the sole interest of concluding the prosecution of this application, Applicants have cancelled claims 34 and 41, and thereby render this rejection moot.

B. New Rejection of Claims Under 35 U.S.C. § 103(a)

The PTO rejected claim 46 under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Pat. No. 6,387,960 to Mueninghoff in view of U.S. Pat. No. 4,244,731 to Oshio. This rejection is rendered moot by Applicants' cancellation of claim 46.

IV. Conclusion

Now having eliminated all outstanding issues and leaving only allowed claims pending, Applicants earnestly request favorable reconsideration of this application as amended and solicit the PTO's indication of allowance. If the Examiner believes that a

telephone interview would advance the prosecution of the present application, he is kindly urged to contact the undersigned by telephone.

Respectfully submitted,

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.